

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.222 Examination of insurers; examination report; hearing; public inspection; disclosure of confidential information; effect of current examination; commissioner's authority to terminate or suspend examination not limited; alien insurer.

Sec. 222. (1) The commissioner in person or by any of his or her authorized deputies or examiners may examine any or all of the books, records, documents, and papers of any insurer at any time after its articles of incorporation have been executed and filed, or after it has been authorized to do business in this state. The commissioner in his or her discretion may examine the affairs of any domestic insurer, and if he or she considers it expedient to do, to examine the affairs of any foreign or alien insurer doing business in this state.

(2) Instead of an examination under this act of any foreign or alien insurer authorized to do business in this state, the commissioner may accept an examination report on the insurer as prepared by the insurance regulator for the insurer's state of domicile or port-of-entry state if that state accepts examination reports prepared by the commissioner. This subsection applies only as follows:

(a) Until this state becomes accredited by the national association of insurance commissioners' financial regulation standards and accreditation program.

(b) If this state loses accreditation by the national association of insurance commissioners' financial regulation standards and accreditation program.

(3) Instead of an examination under this act of any foreign or alien insurer authorized to do business in this state, the commissioner may accept an examination report on the insurer as prepared by the insurance regulator for the insurer's state of domicile or port-of-entry state if that state accepts examination reports prepared by the commissioner and if the insurance regulatory agency of the state of domicile or port-of-entry state was accredited by the national association of insurance commissioners' financial regulation standards and accreditation program at the time of the examination or if the examination is performed under the supervision of an accredited insurance regulatory agency or with the participation of 1 or more examiners who are employed by an accredited insurance regulatory agency and who, after a review of the examination work papers and report, state under oath that the examination was prepared in a manner consistent with the standards and procedures required by their accredited regulatory agency. This subsection only applies during the time this state is accredited by the national association of insurance commissioners' financial regulation standards and accreditation program.

(4) The commissioner in person or by any of his or her authorized deputies or examiners shall once every 5 years examine the books, records, documents, and papers of each authorized insurer. The commissioner may examine an insurer more frequently and upon its request shall examine a domestic insurer that has not been examined for the 3 years immediately preceding the request. This section does not authorize the examination of books, records, documents, or papers if those items involve matters that are a subject of a currently pending administrative or judicial proceeding against the insurer from whom the information is sought, unless the commissioner or judge specifically finds on the record of the proceeding that the examination is reasonably necessary to protect the interests of policyholders, creditors, or the public or to make a determination of whether an insurer is safe, reliable, and entitled to public confidence.

(5) The business affairs, assets, and contingent liabilities of insurers shall be subject to examination by the commissioner at any time. The commissioner may supervise and make the same examination of the business and affairs of every foreign or alien insurer doing business in this state as of domestic insurers doing the same kind of business and of its assets, books, accounts, and general condition. Every foreign or alien insurer and its agents and officers are subject to the same obligations and are subject to the same examinations, and, in case of default therein, to the same penalties and liabilities as domestic insurers doing the same kind of business, or any of the agents or officers thereof, are or may be liable to under the laws of this state or the regulations of the insurance bureau of the department of commerce. The commissioner may, whenever he or she considers it expedient to do so, either in person or by a proper person appointed by him or her, repair to the general office or other offices of the foreign or alien insurer, wherever the same may be, and make an investigation and examination of its affairs and condition.

(6) Upon an examination under this section, the commissioner, his or her deputy, or any examiner authorized by him or her may examine in person, by writing, and if appropriate, under oath the officers or agents of the insurer or all persons considered to have material information regarding the insurer's property, assets, business, or affairs. The commissioner may compel the attendance and testimony of witnesses and the production of any books, accounts, papers, records, documents, and files relating to the insurer's business or affairs, and may sign subpoenas, administer oaths and affirmations, examine witnesses, and receive evidence for this purpose. The insurer and its officers and agents shall produce its books and records and all papers in

its or their possession relating to its business or affairs, and any other person may be required to produce any books, records, or papers considered relevant to the examination for the inspection of the commissioner, or his or her deputy or examiners, whenever required. The insurer's officers or agents shall facilitate the examination and aid in making the same so far as it is in their power to do so. If the commissioner's order or subpoena is not followed, the commissioner may request the Ingham county circuit court to issue an order requiring compliance with the commissioner's order or subpoena.

(7) Not later than 60 days following completion of the examination, the deputy or examiners shall make a full and true report, and furnish the insurer a copy of the examination report that shall comprise only facts appearing on the insurer's books, records, or documents or ascertained from examination of its officers or agents or other persons concerning its affairs and the conclusions and recommendations as may be reasonably warranted from the facts disclosed. An insurer examined, upon its request, shall be granted a hearing before the commissioner or his or her designee before the report is filed. Upon request of the insurer, the hearing shall be closed to the public. A hearing under this subsection is not subject to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. Each examination report shall be withheld from public inspection until the report is final and filed with the commissioner. In addition, the commissioner may withhold any examination report or any analysis of an insurer's financial condition from public inspection for such time as he or she may consider proper. In any event, all information and testimony furnished to the insurance bureau and the insurance bureau's work papers, correspondence, memoranda, reports, records, and other written or oral information related to an examination report or an investigation shall be withheld from public inspection, shall be confidential, shall not be subject to subpoena, and shall not be divulged to any person, except as provided in this section. If assurances are provided that the information will be kept confidential, the commissioner may disclose confidential work papers, correspondence, memoranda, reports, records, or other information as follows:

- (a) To the governor or the attorney general.
- (b) To any relevant regulatory agency, including regulatory agencies of other states or the federal government.
- (c) In connection with an enforcement action brought pursuant to this or another applicable act.
- (d) To law enforcement officials.
- (e) To persons authorized by the Ingham county circuit court to receive the information.
- (f) To persons entitled to receive such information in order to discharge duties specifically provided for in this act.

(8) The confidentiality requirements of subsection (7) do not apply in any proceeding or action brought against or by the insurer under this act or any other applicable act of this state, any other state, or the United States.

(9) Notwithstanding the other provisions of this section, the commissioner is not required to finalize and file an examination report for an insurer for a year in which an examination report was not finalized and filed, if the insurer is currently undergoing an examination subsequent to the year for which an examination report was not finalized and filed. Nothing contained in this section shall be construed to limit the commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory action pursuant to the insurance laws of this state. Findings of fact and conclusions made pursuant to any examination shall be prima facie evidence in any legal or regulatory action.

(10) The examination of an alien insurer is limited to its United States business, except as otherwise required by the commissioner.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1959, Act 39, Eff. Mar. 19, 1960;—Am. 1986, Act 173, Imd. Eff. July 7, 1986;—Am. 1989, Act 302, Imd. Eff. Jan. 3, 1990;—Am. 1992, Act 182, Imd. Eff. Oct. 1, 1992;—Am. 1994, Act 226, Imd. Eff. June 27, 1994;—Am. 1994, Act 443, Imd. Eff. Jan. 10, 1995.

Popular name: Act 218